IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

Crl.MC.No. 2413 of 2005(B)

C.P.42/05 OF J.M.F.C, PALAKKAD IN Cr.nO.322/03 OF WALAYAR POLICE STATION

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PETITIONER:

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1. BENNY JOSEPH, S/O.T.P. JOSEPH,
   THETTAYIL HOUSE, RAINBOW, CENTENARY ROAD,
   KALOOR, KOCHI-17.

2. SHYAM BALAKRISHNAN, AGED 23 YEARS,
   S/O. K. BALAKRISHNAN NAIR,
   KARTHIKA, ROSHAN LANE, BANERJI ROAD,
   KOCHI-18.

3. ASHLIM ANTONY, AGED 29 YEARS,
   S/O. ANTROOSE, VELIYAL HOUSE,
   THRIPUNITHURA, ERNAKULAM.

4. ASWINI KUMAR, S/O.DR. T.V.RAMAKRISHNAN
   CHITTATTUKARA, VADAKKEKARA P.O.,
   NORTH PARUR, ERNAKULAM.

5. SIJU JOSEPH, AGED 29 YEARS,
   S/O. JOSEPH, PADINJARAKUNNEL HOUSE,
   RAJAKUMARI, IDUKKI.

BY ADV. SMT.S.AMBIKA DEVI
SRI.C.V.MANUVILSAN
SRI.G.SUDHEER (THURAVOOR)
SRI.P.K.KHALEEMUDHEEN
SRI.P.C.ANIL KUMAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. BHAVDAS, S/O. RAMAN,
   KONGATTU CHATHANKULAM HOUSE,
   WALAYAR, PALAKKADU DISTRICT.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER
SRI.K.ANAND
SRI.K.RAMAKUMAR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 12/03/2007, ALONG WITH CRMC NO. 2061 OF 2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.Nos.2413 of 2005 and 2061 of 2006

Dated this the 12th day of March, 2007

ORDER

Petitioners in both these cases have come to this Court with applications under Section 482 Cr.P.C to quash the proceedings initiated against them. Proceedings initiated against them are in the nature of a case and a counter case. Investigation is completed and final report has already been filed. In the final reports submitted in both the cases offences exclusively triable by a Court of Sessions are revealed and therefore the Magistrate has committed the cases to the Court of Sessions. They are already before the Court of Sessions and have been numbered as Session Cases. Earlier, orders of stay against further proceedings have been granted in both these Crl.M.Cs.

2. The learned Public Prosecutor, at whose instance these Crl.M.Cs have been brought up for hearing, submits that the short relief which the State wants at this stage is that the stay may not operate against the learned Sessions Judge considering the prayer for leave for further investigation under Section 173(8) Cr.P.C. Superintendent of Police, Crime Branch C.I.D, Palakkad has directed that further investigation must be conducted into both these crimes. In these circumstances, the Investigating Officer wants to seek the leave of the Court to continue the investigation under Section 173(8) Cr.P.C in both cases.

3. I accept the request of the learned Public Prosecutor. It is clarified that the interim stay granted in both these Crl.M.Cs shall not fetter the rights of the Sessions Court to consider the application for leave for further investigation under Section 173(8) Cr.P.C in accordance with law.

4. Hand over copies of this order to the learned counsel for the petitioners.

(R.BASANT, JUDGE)

rtr/-